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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,246	09/17/2003	James Bumgardner	UV-438 CIP	3327
1473	7590	07/07/2009		
ROPES & GRAY LLP PATENT DOCKETING 39/361 1211 AVENUE OF THE AMERICAS NEW YORK, NY 10036-8704			EXAMINER DANG, HUNG Q	
			ART UNIT 2621	PAPER NUMBER
			MAIL DATE 07/07/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/605,246	BUMGARDNER ET AL.	
	Examiner	Art Unit	
	Hung Q. Dang	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34-69 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 34-69 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 03/30/2009 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 34-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohno et al. (US 2001/0028782), Ismail et al. (US 2003/0118323), and Cheng et al. (US 2003/0204848).

Regarding claim 34, Ohno et al. disclose a video recorder (Fig. 1; Fig. 5) configured to solve a tuner conflict ([0071]-[0080]), the video recorder comprising: at least one television tuner that is in a network of tuners (Fig. 1; Fig. 5; [0030]; [0044]), the at least one television tuner being configured to receive a plurality of shows ([0071]); a storage device coupled to the at least one television tuner, the storage device being configured to store a plurality of the received shows ("Storage 110" of Fig. 1; [0040]; [0071]); and a conflict manager configured to: maintain a plurality of shows that are scheduled for storage on the storage device using the at least one tuner ([0071]); determine that there is a tuner conflict based on the maintained shows ([0074]); providing a solution by determining the availability of at least one other tuner in the

network of tuners in response to the determination that there is the tuner conflict ([0076]; [0078]); generating a solution to the tuner conflict without further action by a user ([0071]-[0080]); and issue the storage command to initiate the storage of the show according to storage schedule corresponding to one of the plurality of solutions using the at least one other tuner in the network of tuners ([0079]).

However, Ohno et al. do not disclose maintaining a list of shows, in which at least two of the shows are scheduled for storage on the storage device using the at least one tuner at the same time, and each solution corresponding to a storage schedule that comprises a subset of the shows in the maintained list; the tuner conflict is determined based on the maintained list of shows when the at least two shows are pending issuance of a storage command before being stored on the storage device; and providing the solution by determining availability of at least one other tuner before issuance of the storage command in response to the determination that there is the tuner conflict.

Ismail et al. disclose maintaining a list of shows, in which at least two of the shows are scheduled for storage on the storage device using the at least one tuner at the same time ([0054]; [0055]; Fig. 2); and each of plurality of solutions without further action by a user corresponding to a storage schedule that comprises a subset of the shows in the maintained list ([0054]; [0055]; and Fig. 2).

One of ordinary skill in the art at the time the invention was made would have been motivated to incorporate the show list disclosed by Ismail into the video recorder disclosed by Ohno to give users flexibility on recording of programs. For example, the

list of programs to be recorded can be automatically collected using user's preference data or by users' requests or using storage capacity constraints. The incorporated feature would make the video recorder more robust and well adaptive to users' taste and network environments.

However, Ohno et al. and Ismail et al. do not disclose the tuner conflict is determined based on the maintained list of shows when the at least two shows are pending issuance of a storage command before being stored on the storage device; and providing the solution by determining the availability of at least one other tuner before issuance of the storage command in response to the determination that there is the tuner conflict.

Cheng et al. disclose a tuner conflict is determined based on the maintained list of shows when the at least two shows are pending issuance of a storage command before being stored on the storage device (Fig. 5; [0046]); and the solution is then determined, before issuance of the storage command in response to the determination that there is the tuner conflict ([0046]).

One of ordinary skill in the art at the time the invention was made would have been motivated to incorporate the teachings of Cheng et al. into the video recorder disclosed by Ohno et al. and Ismail et al. in order to resolve any potential conflicts in advance when programs have only been scheduled but not recorded yet. This would provide advantages because delays in recordings are eliminated.

Regarding claim 35, Ohno et al. also disclose the conflict manager is further configured to determine an availability of at least one other tuner in the network of tuners by querying the network for another available tuner ([0074]-[0078]).

Regarding claim 36, Ismail et al. also disclose receiving a request to store a further show to the storage device ([0055]) and assigning a priority to the further show ([0055]).

Regarding claim 37, Ismail et al. also disclose evaluating the plurality of solutions by comparing the assigned priority of the further show to priorities associated with the shows in the plurality of solutions ([0054]; [0055]).

Regarding claim 38, Ismail et al. also disclose eliminating at least one solution if each of the shows in the storage schedule corresponding to the at least one solution has a lower priority than the priority assigned to the further show ([0054]; [0055]).

Regarding claim 39, Ismail et al. also disclose cancelling the recording of each of the shows in the storage schedule corresponding to the at least one eliminated solution ([0054]; [0055]).

Regarding claim 40, Ismail et al. also disclose providing the user with the opportunity to cancel at least one show from one of the plurality of solutions ([0054]; [0055]).

Regarding claim 41, Ismail et al. also disclose searching through an interactive program guide to determine if one of the shows in the maintained list is available to record at a later time ([0019]; [0026]; [0038]).

Regarding claim 42, Ismail et al. also disclose rescheduling the recording of the program to the later time based on the determination ([0019]; [0026]).

Claim 43 is rejected for the same reason as discussed in claim 34 above.

Claim 44 is rejected for the same reason as discussed in claim 35 above.

Claim 45 is rejected for the same reason as discussed in claim 36 above.

Claim 46 is rejected for the same reason as discussed in claim 37 above.

Claim 47 is rejected for the same reason as discussed in claim 38 above.

Claim 48 is rejected for the same reason as discussed in claim 39 above.

Claim 49 is rejected for the same reason as discussed in claim 40 above.

Regarding claim 50, Ismail et al. also disclose the priority associated with one show in the maintained list of shows is established by comparing the length of the one show to each of the other shows in the maintained list ([0054]).

Regarding claim 51, Ismail et al. also disclose the priority associated with one show in the maintained list of shows is established based on whether the show was scheduled for recording manually or automatically ([0055]).

Regarding claim 52, Ismail et al. also disclose determining if there is a conflict between a plurality of series ([0019]; [0054]).

Regarding claim 53, Ismail et al. also disclose eliminating at least one solution if at least one show in the storage schedule corresponding to the at least one solution is part of the series and is a repeat ([0019]).

Regarding claim 54, Ismail et al. also disclose the priority associated with one show in the maintained list of shows is established based on whether the one show is

currently being recorded to the storage device ([0054]; [0055]; it is noted that, according to the teaching of Ismail et al., the show currently being recorded has the highest priority).

Claim 55 is rejected for the same reason as discussed in claim 34 above.

Claim 56 is rejected for the same reason as discussed in claim 35 above.

Claim 57 is rejected for the same reason as discussed in claim 36 above.

Claim 58 is rejected for the same reason as discussed in claim 37 above.

Claim 59 is rejected for the same reason as discussed in claim 38 above.

Claim 60 is rejected for the same reason as discussed in claim 39 above.

Claim 61 is rejected for the same reason as discussed in claim 40 above.

Claim 62 is rejected for the same reason as discussed in claim 50 above.

Claim 63 is rejected for the same reason as discussed in claim 51 above.

Claim 64 is rejected for the same reason as discussed in claim 52 above.

Claim 65 is rejected for the same reason as discussed in claim 53 above.

Claim 66 is rejected for the same reason as discussed in claim 54 above.

Regarding claim 67, Ohno et al. also disclose the conflict manager is further configured to initiate the storage of shows using the at least one other tuner in the network of tuners according to the storage schedule ([0078]; [0079]).

Claim 68 is rejected for the same reason as discussed in claim 67 above.

Claim 69 is rejected for the same reason as discussed in claim 67 above.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hung Q. Dang whose telephone number is (571)270-1116. The examiner can normally be reached on IFT.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THAI Q. TRAN can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2621

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hung Q Dang/
Examiner, Art Unit 2621

/Thai Tran/
Supervisory Patent Examiner, Art Unit 2621